

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER
20652
PERMIT _____

(over)

Application 29633 of Tom Clark

P.O. Box 325, St. Helena, CA 94574

filed on December 27, 1989, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source: Tributary to:

(1) Unnamed Stream	Burton Creek thence
	Maxwell Creek thence
	Pope Creek thence
	Putah Creek thence
	Yolo Bypass
(2) Unnamed Stream	Burton Creek thence Yolo Bypass

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section *	Town-ship	Range	Base and Meridian
(1) STORAGE AND REDIVERSION NORTH 3,300 FEET AND EAST 350 FEET FROM SW CORNER OF FRACTIONAL SECTION 20	SW $\frac{1}{4}$ OF NW $\frac{1}{4}$	20	9N	5W	MD
(2) DIVERSION TO OFFSTREAM STORAGE NORTH 1,220 FEET AND EAST 130 FEET FROM SW CORNER OF FRACTIONAL SECTION 20	SW $\frac{1}{4}$ OF SW $\frac{1}{4}$	20	9N	5W	MD

County of Napa * Fractional

3. Purpose of use:	4. Place of use:	Section *	Town-ship	Range	Base and Meridian	Acre
FIRE PROTECTION						
RECREATION	RESERVOIR NO. 1 WITHIN SW $\frac{1}{4}$ OF NW $\frac{1}{4}$	20	9N	5W	MD	
IRRIGATION	NW $\frac{1}{4}$ OF SW $\frac{1}{4}$	20	9N	5W	MD	10
	SW $\frac{1}{4}$ OF NW $\frac{1}{4}$	20	9N	5W	MD	10
					TOTAL	20

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 35 acre-feet per annum to be collected from October 1 of each year to May 1 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000051)

The maximum rate of diversion to offstream storage shall not exceed 0.25 cubic foot per second. (000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 31, 1995. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1996. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. This permit shall not be construed as conferring upon permittee right of access to the point of diversion. (0000022)

15. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

16. Permittee shall install and maintain devices satisfactory to the State Water Resources Control Board to measure the rate and quantity of water diverted into the reservoir from Point of Diversion No. 2, and water released from or flowing out of the reservoir. (0060046)

17. Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoir.

Permittee shall record the staff gage reading on or about October 1 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

The State Water Resources Control Board may require the release of water which cannot be verified as having been collected to storage prior to October 1 of each year. (0070047)
(0100047)

18. This permit is specifically subject to the prior rights of Pope Valley Union School District under appropriations issued pursuant to Applications 23696 and 26994.

Permittee shall allow a designated representative of Pope Valley Union School District, and all successors in interest, reasonable access to the reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoir. (048T001)

19. If the storage dam will be of such size as to be within the jurisdiction of the Department of Water Resource as to safety, construction for the enlarged dam under this permit shall not be commenced until the Department has approved the plans and specifications for the dam. (0360048)

20. Whenever the prior storage rights of Pope Valley Union School District under License 12242 issued pursuant to Application 26994 are not satisfied by May 1 of any year, water collected to storage under this permit during the current collection season shall be immediately released at the maximum practicable rate to the extent necessary to satisfy said prior downstream storage rights. Permittee shall not be obligated to release water in the reservoir below the previous October 1 staff gage reading unless permittee has withdrawn water from the reservoir for consumptive purposes since October 1. (0000051)

21. For the protection of fish and wildlife, permittee shall during the period from October 1 through May 1 bypass a minimum of 0.3 cubic foot per second at point of diversion No. 2. The total streamflow shall be bypassed whenever it is less than the designated amount. (0140060)

22. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the bypass flow required by the conditions of this permit. Said measuring device shall be properly maintained. (0060062)

23. Any fencing installed around those portions of the 20 acres designated as the place of use under this permit that have been or will be converted to vineyard shall be satisfactory to the California Department of Fish and Game. In order to maximize available wildlife habitat, permittee shall not fence non-vineyard acreage. (0400300)

24. For the passage and protection of wildlife in the area, permittee shall not clear native vegetation, construct fencing, or otherwise disturb the existing drainage of stream channels for a minimum lateral distance of 50 feet from the top of the bank on each side of the stream. Fencing shall not prohibit wildlife passage along such vegetated corridors. (0400500)

25. Permittee shall implement, monitor and maintain the erosion control measures outlined in the erosion and sediment control plan prepared for the vineyard development by the United States Department of Agriculture, Soil Conservation Service dated October 1, 1990. (0430500)

26. Permittee shall maintain the increased availability of forage to wildlife due to the removal of livestock grazing from the property. No livestock shall be allowed on non-vineyard acreage.

27. For habitat enhancement, permittee shall, within one year after issuance of this permit, establish tree and shrub species, as specified below, within the mitigation areas identified in the document titled "Environmental Impact Information (Plants and Animals) for the Tom Clark Project" dated January 1992. Establishment shall be by enhancing target species which are naturally sprouting and/or by planting new plants. To be considered successful, each plant must be self-sustaining for at least three years. If mortality causes the number of plants to decline below a target survival rate of 80 percent, new plants shall be planted until the minimum 80 percent survival rate is obtained. A report on status and the success of the revegetation program shall be submitted annually to the State Water Resources Control Board for three years after issuance of this permit or until the 80 percent survival rate is attained, whichever is later.

a) For tree habitat:

1) Tree species to be enhanced and/or planted shall consist of 200 blue oak, 200 valley oak, 100 California black oak, and 100 digger pine, totaling 600 trees. Oak species may be rooted acorns, seedlings, or saplings. Digger pine seedlings may be bare-root or containerized.

2) All tree planting shall be augured as needed to promote deep root growth. Slow-release fertilizer shall be added, if needed. The holes shall be backfilled and then planted.

3) Seedlings shall be irrigated during the growing season with a drip irrigation system. The irrigation system shall apply, at a minimum, the amount and frequency of water needed to promote adequate root growth such that the plants will survive and grow without supplemental water after three years.

4) Herbicides, weed mats, browse repellents, and herbivore protection kits shall be used, if necessary, to control competitive weeds and animal browse, or to maintain plant vigor.

b) For browse habitat:

- 1) Browse species to be enhanced and/or planted shall be composed of the scrub oak, toyon, mountain mahogany, Sierra plum, honeysuckle, buckeye, elderberry, madrone, or redbud. Native blackberry species are acceptable at scattered locations. Non-native blackberry species shall be avoided.
- 2) Five hundred plants shall be enhanced and/or planted. Slow-release fertilizer shall be added, if needed.
- 3) Plants shall be irrigated during the growing season with a drip irrigation system. The irrigation system shall apply, at a minimum, the amount and frequency of water needed to promote adequate root growth such that the plants will survive and grow without supplemental water after three years.
- 4) Herbicides, weed mats, browse repellents, and herbivore protection kits shall be used, if necessary, to control competitive weeds and animal browse, or to maintain plant vigor.
- 5) A dense stand of chaparral shall be selectively cleared. Older, dead shrubs shall be removed and vigorous shrubs shall be trimmed to encourage new growth. Trimmed material shall be used to create brush piles for wildlife habitat.

c) For riparian habitat:

- 1) Fifty willow cuttings, 50 cottonwood saplings, and 50 elderberry seedlings shall be planted around the reservoir. Willow and cottonwood may be planted close to the reservoir mean water line. Elderberry shall be planted above the reservoir high water line, but close enough to generally have slightly damp soil into the summer.
- 2) Plants shall be planted at irregular spacings.
- 3) Herbicides, weed mats, browse repellents, and herbivore protection kits shall be used, if necessary, to control competitive weeds and animal browse, or to maintain plant vigor. (0400700)

28. Permittee is hereby put on notice that there may be years when water collected to storage under this permit will not be within the reservation of water established for the watershed upstream from Lake Berryessa in State Water Resources Control Board Decision 869. During such years, unless replacement water is provided on an exchange basis, permittee shall release water collected to storage under this permit during the preceding collection season at the maximum practical rate to flow into Lake Berryessa. (0220087)

29. The total quantity of water diverted under this permit, together with that diverted under the license issued pursuant to Application 26426, shall not exceed 35 acre-feet per annum. (0000114)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

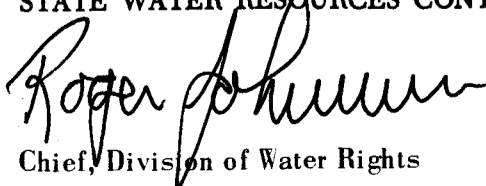
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: JANUARY 05 1993

STATE WATER RESOURCES CONTROL BOARD


601 Chief, Division of Water Rights